

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ansley Watson	Team: Team # 8	CCRB Case #: 200804910	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 03/21/2008 4:45 PM	Location of Incident: East 56th Street and Avenue H	Precinct: 63	18 Mo. SOL 9/21/2009	EO SOL 9/21/2009	
Date/Time CV Reported Mon, 03/31/2008 6:50 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/07/2008 4:25 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kaz Daughtry	28690	940052	073 PCT
2. POM Thomas Hardell	24109	936730	073 PCT
3. LT John Rafferty	00000	918191	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT John Rafferty	Abuse: Lt. John Rafferty stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Thomas Hardell	Abuse: PO Thomas Hardell searched § 87(2)(b)	
C.POM Thomas Hardell	Abuse: PO Thomas Hardell threatened to arrest § 87(2)(b)	
D.POM Kaz Daughtry	Force: PO Kaz Daughtry used physical force against § 87(2)(b)	

Synopsis

On March 21, 2008 around 4:45pm, § 87(2)(b) was in his friend § 87(2)(b)'s car, when they were pulled over by an unmarked black Impala at 56th Street and Avenue H in Brooklyn. An officer, identified through the investigation as Lt. John Rafferty of the 73rd Precinct, approached the driver's side and asked for § 87(2)(b)'s license and registration (**Allegation A**).

An officer, identified through the investigation as PO Thomas Hardell of the 73rd Precinct, approached the passenger's side. § 87(2)(b) had his phone in his left hand and PO Hardell yelled to § 87(2)(b) "Shut your phone off." PO Hardell told § 87(2)(b) to give him his phone and § 87(2)(b) refused. PO Hardell grabbed § 87(2)(b) by the wrist, and § 87(2)(b) tried to pull away. PO Hardell and an officer, identified through the investigation as PO Kaz Daughtry of the 73rd Precinct, opened the car door and pulled § 87(2)(b) out by the front of his shirt. PO Hardell allegedly searched § 87(2)(b)'s left front pants' pocket (**Allegation B**). PO Hardell told § 87(2)(b) he would be taken to jail because he refused to obey orders (**Allegation C**). § 87(2)(b) turned around and placed both hands behind his back. PO Daughtry cuffed his right hand and allegedly punched him in his lower ribs on his left side and elbowed him in his back and side. PO Daughtry cuffed his left hand, and allegedly kned him in the back five or six times (**Allegation D**). § 87(2)(b) was transported to the 73rd Precinct. PO Daughtry issued him a summons for disorderly conduct and he was released.

§ 87(2)(b) called 911 and requested an ambulance, complaining of back pain. He was taken to § 87(2)(b) Hospital where he was issued ibuprofen.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) (encl. 3A-B and 6A-F)

§ 87(2)(b) called 911 and made a statement on March 21, 2008 and was interviewed at the CCRB on April 24, 2008. § 87(2)(b) is a § 87(2)(b). His statements were consistent and are summarized below.

On March 21, 2008 around 4:45pm, § 87(2)(b) was in his friend § 87(2)(b)'s car. § 87(2)(b) was driving them from § 87(2)(b)'s house to the Chase bank at Flatbush junction when they were pulled over by an unmarked black Impala with flashing lights at 56th Street and Avenue H (**Allegation A**). § 87(2)(b) had not committed any traffic violations and § 87(2)(b) could not think of any reason why the police might have stopped them. An officer, identified through the investigation as Lt. John Rafferty of the 73rd Precinct, approached § 87(2)(b)'s side of the car. Lt. Rafferty said, "§ 87(2)(b) what's up?" or "§ 87(2)(b) what's up?" § 87(2)(b) told Lt. Rafferty that he had the wrong guy, and his name wasn't § 87(2)(b). Lt. Rafferty apologized and asked § 87(2)(b) for his license and registration. Lt. Rafferty was a tall white male with dark hair. He was dressed in a uniform with a white shirt. He appeared to be in his late thirties or early forties and had a slim build.

PO Hardell approached the passenger's side. PO Hardell was 6' tall white male wearing blue uniform. He had blond hair and a square head. He had a medium build and appeared to be in his thirties. § 87(2)(b) had his phone in his left hand. It was not on. PO Hardell yelled to § 87(2)(b) "Shut your phone off." § 87(2)(b) told PO Hardell that his phone was not on. PO Hardell told § 87(2)(b) to turn off his cell phone two or three times. § 87(2)(b) asked, "Are you scared that you are being recorded, because you know you shouldn't have pulled us over?" PO Hardell told § 87(2)(b) to give him his phone. § 87(2)(b) refused. PO Hardell grabbed § 87(2)(b) by the wrist, and § 87(2)(b) tried to pull away.

Immediately, PO Hardell and PO Daughtry opened the car door and pulled § 87(2)(b) out by the front of his shirt. § 87(2)(b) didn't notice PO Daughtry until he pulled him out of the car. PO Daughtry was a black male in uniform who wore glasses. He had a low hair cut and medium brown skin. He appeared to be in his late twenties and had a slim build. He was about six feet tall. § 87(2)(b) also said there was a fourth officer at the scene, but his description was identical to PO Hardell and no allegations were made against that officer.)

§ 87(2)(b) was wearing a black jacket. He was standing face to face with PO Hardell. He said, "Get off of me," and they let him go. PO Hardell searched § 87(2)(b)'s left front pants pocket (**Allegation B**). § 87(2)(b) was not hurt when he was initially grabbed. § 87(2)(b) said, "Get your hand out of my pocket. I know my rights." After PO Hardell removed his hand from § 87(2)(b)'s pocket, an unknown officer told § 87(2)(b) they would take him to jail (**Allegation C**). § 87(2)(b) asked why and the officer told him because he refused to obey orders. § 87(2)(b) said he couldn't obey the order because his phone wasn't on. § 87(2)(b) said, "Just take me to jail and when we get there you can explain to the captain why you stopped us in the first place, then explain how this escalated over a cell phone. It's not against the law to have my phone in my hand."

PO Daughtry took out his brought out his handcuffs. PO Daughtry cuffed § 87(2)(b)'s right hand. § 87(2)(b) turned around and placed both hands behind his back. § 87(2)(b) didn't move or say anything, but PO Daughtry punched him in his lower ribs on his left side. It happened so fast that § 87(2)(b) thought maybe the officer made a mistake so § 87(2)(b) did not respond. § 87(2)(b) was leaning with his chest on the car, his hands behind him one hand cuffed. § 87(2)(b) was punched a couple of times on his left side (**Allegation D**). Then PO Daughtry started elbowing him in his back and side. § 87(2)(b) yelled, "Why are you hitting me?" § 87(2)(b) was elbowed in the back about 5 times. PO Daughtry cuffed his left hand, and started kneeing him in the back. He was kneed 5-6 times. § 87(2)(b) watched without doing anything. § 87(2)(b) yelled to Lt. Rafferty, who was still on the driver's side, "Why is your officer doing this to me?" He yelled to § 87(2)(b) "Watch what he's doing, I'm not moving." While § 87(2)(b) and PO Hardell were arguing, § 87(2)(b) and Lt. Rafferty just watched. § 87(2)(b) was not arrested or issued summons.

The officers put § 87(2)(b) in the car. Lt. Rafferty was the driver. On the way to the precinct, § 87(2)(b) said that he was hurt and he wanted to exercise his right to go to the hospital. Lt. Rafferty told him he wouldn't be at the precinct long, but that he could go to the hospital if he wanted. At the precinct, Lt. Rafferty told him he would be released with a summons if he didn't have any warrants. § 87(2)(b) met § 87(2)(b) at the precinct. His cuffs were so tight his hands felt numb. § 87(2)(b)'s his right hand is still numb around his thumb. The officers tried to explain "their side of the story" to § 87(2)(b). They said they had to get his phone because he "could have called someone for backup." They suggested he could have called someone to "ambush" the officers.

§ 87(2)(b) said he saw PO Daughtry write up the summons for disorderly conduct. § 87(2)(b) asked for PO Daughtry's badge number. PO Hardell told him it was on the summons. Lt. Rafferty asked to talk to § 87(2)(b) outside. § 87(2)(b) told him what PO Daughtry did was wrong. Lt. Rafferty said maybe § 87(2)(b) was resisting arrest. § 87(2)(b) said he had witnesses to show he wasn't. § 87(2)(b) told Lt. Rafferty he didn't know how it was to be a young black man getting stopped by white cops. Lt. Rafferty said he was the only white family left in Bushwick, and he knows how it is to be harassed. Lt. Rafferty told § 87(2)(b) that he saw § 87(2)(b) was in school, and he didn't want to mess up his future. Lt. Rafferty said that is why § 87(2)(b) wasn't arrested. § 87(2)(b) told Lt. Rafferty if he really wanted to help out § 87(2)(b) he wouldn't have him in that situation at all. He said he didn't want disorderly conduct on his record. Lt. Rafferty said, I can help you out, just help me out. Lt. Rafferty told § 87(2)(b) to tear up the summons he had received. Lt. Rafferty told § 87(2)(b) he wouldn't put the summons into the system. Lt. Rafferty told § 87(2)(b) "I don't want to hear from you or see you again." § 87(2)(b) took that to mean Lt. Rafferty didn't want him to file a complaint. § 87(2)(b) was standing nearby and heard this conversation. Lt. Rafferty went inside and § 87(2)(b) called for an ambulance. While he spoke with a dispatcher, he was connected to IAB. She said that the captain wasn't at the precinct, but he should talk to "Inspector Campbell." § 87(2)(b) thought Inspector Campbell was Lt. Rafferty and said he didn't want to

talk to him, because he had just tried to make a deal with § 87(2)(b). The ambulance came. § 87(2)(b) was sitting in the ambulance when Lt. Rafferty came out of the stationhouse. He asked § 87(2)(b) what was going on. Lt. Rafferty told § 87(2)(b) he wasn't acting hurt when they were talking earlier. Lt. Rafferty said "take care of your summons." § 87(2)(b) asked for a copy and Lt. Rafferty said I don't know what you're talking about. PO Hardell came out with a camera and tried to take § 87(2)(b)'s picture because he "had to file a report."

§ 87(2)(b) was treated at § 87(2)(b) Hospital. § 87(2)(b) was x-rayed. The doctor told him he had soft tissue damage and prescribed pain killers. § 87(2)(b) took pictures of his bruises on the same night when he got home from the hospital, but he did not provide them at the time of his CCRB interview.

Results of Investigation

§ 87(2)(b) (encl. 7A-D)

§ 87(2)(b) was interviewed at the CCRB on May 7, 2008.

On March 21, 2008 around 4:45pm, § 87(2)(b) and § 87(2)(b) were pulled over. § 87(2)(b)'s car is a black 2005 Toyota Camry. The license plate is number § 87(2)(b). They had come from § 87(2)(b)'s house and were going to the Chase bank. Lt. Rafferty, a white male in his mid-thirties to early-forties, average/ athletic wearing white shirt with a uniform 6'1-2" light hair, gel styled, approached the driver's side of the vehicle. Three other officers approached the passenger's side. Lt. Rafferty said to § 87(2)(b) "Nice to see you § 87(2)(b). § 87(2)(b) took off his hat, raised his head, and said, "My name is not § 87(2)(b). Lt. Rafferty apologized and asked for license and registration. § 87(2)(b) complied. § 87(2)(b) was certain he did not commit any traffic violations before being stopped.

PO Hardell and an unidentified white male officer were indistinguishable. Both were white males with average builds, dressed blue uniform. PO Daughtry was a black male in uniform. He wore glasses and had no facial hair. If he saw them again, § 87(2)(b) would recognize Lt. Rafferty and PO Daughtry, but not PO Hardell and PO3.

PO Hardell asked § 87(2)(b) to turn his phone off. § 87(2)(b) said it was off. PO Hardell told § 87(2)(b) to give him the phone and § 87(2)(b) refused. They argued back and forth and their voices were raised, but neither used profanity. PO Hardell asked § 87(2)(b) to step out of the car. PO Hardell opened the car door and put his hands on § 87(2)(b) but § 87(2)(b) stepped out under his own power. PO Hardell told § 87(2)(b) he was going to be arrested because he wasn't listening (**Allegation C**). § 87(2)(b) said, "Go ahead and arrest me; then you'll have to explain it to your boss." He turned and put his arms behind his back. § 87(2)(b) was not sure if § 87(2)(b) was frisked or searched before he was handcuffed. PO Daughtry started beating § 87(2)(b) handcuffed him, and continued beating him. § 87(2)(b) estimated that this went on 1-2 minutes. PO Daughtry elbowed, kneed and punched § 87(2)(b) in the back and legs (**Allegation D**). § 87(2)(b) acknowledged that his view was obstructed and he was not sure where PO Daughtry was hitting § 87(2)(b).

While the beating was going on, § 87(2)(b) and LT. Rafferty just watched. LT. Rafferty told § 87(2)(b) "Tell you friend to relax." § 87(2)(b) pointed out that § 87(2)(b) was handcuffed and not resisting the officers.

The officers took § 87(2)(b) to the 73rd Precinct. § 87(2)(b) drove to the precinct to pick him up.

Lt. Rafferty told § 87(2)(b) at the precinct, he stopped him because of his mistaken identity and would have let them go if § 87(2)(b) and the other officers hadn't begun to argue. § 87(2)(b) was released with summons. Lt. Rafferty asked to speak to § 87(2)(b) and § 87(2)(b) outside. Lt. Rafferty tried to relate his side of the story and calm the situation down. Lt. Rafferty said they were trained in how to arrest people and § 87(2)(b) asked if officers were trained to beat up people who were already handcuffed and they aren't resisting. Lt. Rafferty talked some more. He said the only reason § 87(2)(b) was processed as an arrest is because he is a college student. § 87(2)(b) was asking for badge numbers. Lt. Rafferty said, "If you don't make a complaint, you don't have to worry about the summons." § 87(2)(b) said he wouldn't

file a complaint. Lt. Rafferty took the summons from § 87(2)(b) and ripped it up. Then he went back into the stationhouse.

§ 87(2)(b) decided he was in too much pain to go home, so he called ambulance. § 87(2)(b) complained of pain to his back and side.

PO Kaz Daughtry

§ 87(2)(b)

CCRB Statement (encl. 10A-B)

PO Kaz Daughtry was interviewed at the CCRB on July 10, 2008. PO Daughtry is a § 87(2)(b). He wears glasses.

PO Daughtry had the following memobook entry regarding this incident:

1500 pick up a susp auto driving at a high rate of speed southbound on Ralph Avenue and Glenwood Road. Upon car stop operator § 87(2)(b) warned and admonished. Passenger started getting very agitated by yelling and throwing his arms around and hitting door of vehicle. His loud boisterous behavior caused public annoyance and alarm and drew attention of many passersby. Upon numerous requests to present ID, requested passenger step out of the vehicle. He became very belligerent and started threatening myself and my partner at this time. Defendant still didn't present ID upon request. Tried to place defendant under arrest for disorderly conduct. Passenger refused. (encl. 9A-C)

Around 4:25pm on March 21, 2008, PO Daughtry was in the backseat of an unmarked car. Lt. Rafferty was driving and PO Hardell was the reporter. The officers observed a vehicle driving with excessive speed and Lt. Rafferty initiated a car stop. Lt. Rafferty went to the driver's side and PO Hardell and PO Daughtry went to the passenger's side. Immediately, § 87(2)(b) the passenger, stuck his head out of the window and began cursing at the officers, saying, "You have no right to fucking stop us."

The operator was very nice and apologetic. Lt. Rafferty told him he had to slow down and drive more carefully, and decided not to issue him a summons.

A school was nearby, and some of the children were cheering on § 87(2)(b). Parked called PO Daughtry "Urkle." PO Daughtry did not respond to that. A crowd was gathering and PO Hardell and PO Daughtry told § 87(2)(b) if he didn't stop yelling he would be issued a summons for disorderly conduct. § 87(2)(b) responded by saying that the officers had no right to issued him a summons. PO Hardell and PO Daughtry asked § 87(2)(b) 3-4 times to get out of his vehicle before § 87(2)(b) complained. They asked him for identification, but he refused to provide it. At that time, PO Daughtry handcuffed § 87(2)(b). § 87(2)(b) moved his arms to try and avoid being handcuffed, so PO Daughtry had to pull his arms behind him. PO Daughtry did not use any other force on § 87(2)(b). PO Daughtry never punched or kicked § 87(2)(b) and neither did PO Hardell. PO Daughtry and PO Hardell did not have a discussion with § 87(2)(b) regarding his cell phone.

§ 87(2)(b) was put in the rear seat of the police car and transported to the 73rd Precinct. He was not simply issued a summons at the scene because, with the crowd gathered around, it was unsafe for the officers. PO Daughtry could not estimate the size of the crowd that gathered.

At the precinct, a warrant check was done on § 87(2)(b). He complained of injuries (PO Daughtry could not remember the nature of the injuries) but did not appear to be injured. EMS was called and said that he had no injuries. Lt. Rafferty reported the incident to IAB, and § 87(2)(b) was released with a summons for disorderly conduct (obscene language or gesture).

Lt. John Rafferty (encl. 12A-B)

Lt. Rafferty was interviewed at the CCRB on August 1, 2008. On March 21, 2008, Lt. Rafferty was assigned to special operations, and he was working with PO Daughtry and PO Hardell. He was dressed in plainclothes and assigned to an unmarked blue Chevy.

Lt. Rafferty had the following memobook entry regarding this incident:

17:00- auto driving with excessive speed southbound on Ralph Avenue and Glenwood road. Upon stopping the vehicle, operator § 87(2)(b) of 832 49th Street, Toyota New York plate § 87(2)(b) was warned and admonished. Passenger § 87(2)(b) started yelling and screaming, saying "you are always doing this." Started yelling and screaming obscenities, causing public alarm. Defendant was handcuffed and removed to 73rd Precinct, where he was issued § 87(2)(b) and released.

18:25- called IAB in regards to complaint. Spoke to PO Campbell regarding claims of injury to § 87(2)(b) No visible injuries. Complained of back pain. (encl. 11A-C)

§ 87(2)(e), § 87(2)(f)

§ 87(2)(b) Lt. Rafferty did not recall where he was in relation to the car he observed when he noted the excessive speed. Lt. Rafferty, the operator, conducted a car stop. He approached the driver's side of the vehicle while PO Daughtry and PO Hardell approached the passenger's side. Lt. Rafferty asked the driver for his license and registration, and the driver was very polite. The passenger, § 87(2)(b) was yelling, saying, "You're always fucking doing this. Why do you go find the people who are out there killing?"

PO Daughtry and PO Hardell, as well as the car's operator, asked § 87(2)(b) to calm down. Lt. Rafferty did not recall them having a conversation with § 87(2)(b) regarding a cell phone. Lt. Rafferty explained that if he just confirmed that they owned the car, they would be on their way, but if § 87(2)(b) continued to yell, he would receive a summons.

A group of 10-12 people stopped to watch the incident. § 87(2)(b) continued in a loud tone and did not cooperate. PO Hardell and PO Daughtry asked him to step out of the vehicle, which he did willingly. § 87(2)(b) refused to provide identification, so PO Hardell and PO Daughtry handcuffed him. § 87(2)(b) refused to put his hands behind his back, so one of the officers, (not Lt. Rafferty, who remained on the driver's side) pulled his arms behind his back. No other force was necessary. No one kicked or punched § 87(2)(b). He did not appear to be injured or complain of injuries. § 87(2)(b) was never frisked or searched before he was handcuffed. After he was handcuffed, he was frisked before getting into the patrol car for the officers' safety. He did not have any contraband.

Lt. Rafferty mentioned that if § 87(2)(b)'s actions had risen to the level of resisting arrest, more force would have been used and he would have been charged with resisting arrest and put through the system.

Because of the crowd, § 87(2)(b) was transported to the 73rd Precinct where he was released with a summons for disorderly conduct.

After he left the stationhouse, § 87(2)(b) called IAB. Lt. Rafferty saw an ambulance in front of station house and asked § 87(2)(b) why it was there and what had happened to him. § 87(2)(b) complained of back pain. EMS told Lt. Rafferty that § 87(2)(b) did not appear to be injured.

PO Thomas Hardell (encl. 14A-B)

PO Hardell was interviewed at the CCRB on August 19, 2008. PO Hardell is a 27-year-old white male with brown hair and hazel eyes. He is 5'10" and weighs 175 pounds. On March 21, 2008, PO Hardell worked from 11:00am until 7:35pm and was assigned to special operations with PO Daughtry and Lt. Rafferty. He was dress in uniform and assigned to an unmarked vehicle.

PO Hardell had the following memobook entry regarding this incident:

15:00- 98 with Lt. Rafferty and PO Daughtry observed vehicle driving recklessly excessive speed southbound on Ralph avenue near Glenwood Road. Vehicle stop c/o east 59th street and Glenwood Road. Passenger started getting agitated by yelling and throwing arms around, hitting door or vehicle. His loud and boisterous behavior cause public alarm and drew attention to vehicle stop. Passenger refused to

prevent ID several times. Requested passenger step out of vehicle. Became very belligerent; started threatening partner and self. Refused to present ID again. At that time, tried to place passenger under arrest for disorderly conduct. Passenger refused to be handcuffed and started screaming obscenities. Passenger was pulling arms and holding PO Daughtry's hand. Passenger was pushed in the doorjamb, and minimal force was used getting passenger handcuffed. Passenger was brought back to the 73rd Precinct and no injuries were visible or report. Defendant was issued summons by PO Daughtry at 73rd Precinct.

18:20- responded to § 87(2)(b) Hospital to take photo of defendant § 87(2)(b) (encl. 13A-B)

At around 3:00pm on March 21, 2008, PO Hardell observed a vehicle driving at a high rate of speed on Ralph Avenue. He was not sure who decided to do so, but the officers initiated a car stop. Lt. Rafferty went to driver's side and PO Daughtry and PO Hardell went to the passenger's side of the vehicle. Lt. Rafferty asked the driver for his license, registration and insurance.

The passenger, § 87(2)(b) was belligerent. He was hitting the inside of the passenger side door, and saying, "What the fuck are you guys always harassing us?" The driver was very cooperative and tried to get § 87(2)(b) to calm down but touching his hand. § 87(2)(b) was swearing and PO Hardell asked him to calm down, but he continued to yell. PO Hardell asked § 87(2)(b) for his identification, and § 87(2)(b) refused to provide it. PO Hardell was not sure exactly what he said, but he might have told § 87(2)(b) he could be arrested for not providing ID. § 87(2)(b) was on his cell phone at some point during the incident, and PO Hardell might have asked him to turn it off. People call their friends and have them respond to the scene. If PO Hardell spoke to § 87(2)(b) about his cell phone, it was a brief conversation.

There was a store across the street, and as people came out, they gathered around to see what was happening. A crowd of 10-15 had formed. PO Hardell asked § 87(2)(b) to step out of the vehicle and he did so. PO Hardell asked for ID again but § 87(2)(b) continued to refuse. § 87(2)(b) then said he would kick the shit out of PO Hardell and his partner.

PO Daughtry and PO Hardell tried to place § 87(2)(b) under arrest, but § 87(2)(b) flailed his arms and refused to be handcuffed. PO Hardell and PO Daughtry pushed § 87(2)(b) into the doorjamb of the car and pulled his arms behind his back. No one ever punched or kicked § 87(2)(b). Lt. Rafferty was not involved in using force with § 87(2)(b) he remained on the driver's side of the vehicle. § 87(2)(b) was not frisked or searched before he was handcuffed.

After he was handcuffed, § 87(2)(b) was transported to the 73rd Precinct and issued a summons for disorderly conduct. PO Hardell didn't feel that § 87(2)(b) resisted enough to charge him with resisting arrest and put him through the system. § 87(2)(b) never complained of injury or asked for medical attention. Later, PO Hardell was informed that § 87(2)(b) took an ambulance from the precinct to § 87(2)(b) Hospital. PO Hardell went there and took photo to establish that § 87(2)(b) had no visible signs of injury.

Medical Records (encl. 15A-O)

-Ambulance call report

§ 87(2)(b) complained of back pain and pain to his right leg and said he had been beaten by the police. His physical examination did not reveal any swelling or deformities.

§ 87(2)(b) Hospital records

His physical examination did not reveal any swelling or deformities, and there was no evidence of fracture or dislocation. He was provided with ibuprofen for pain.

Injury Photos (encl. 16A-C)

§ 87(2)(b) took several photos of his left torso on the night of the incident. Some localized redness/bruising is evident.

73rd Precinct Roll Call (encl. 17A-P)

The tour two roll call for March 21, 2008 indicates that PO Hardell, PO Daughtry, and Lt. Rafferty were the only three officers assigned to special operations.

73rd Precinct Command Log (encl. 18A)

§ 87(2)(b)'s arrest is documented at 5:20pm in the command log. A note shows that a warrant check was negative and he was released with a summons.

Prisoner Holding Pen Roster (encl. 19A-I)

The roster indicates that § 87(2)(b) was held in the cells from 5:20pm until 5:35pm and was released with a summons.

§ 87(2)(c)

Subject Officer CCRB History (encl. 1A-F)

Lt. Rafferty and PO Hardell do not have any substantiated allegations in their CCRB histories. In case #200710793, PO Daughtry had two allegations substantiated against him for pointing a gun, and threatening the use of force.

Conclusions and Recommendations

Identification of Subject Officers

PO Daughtry issued summons to § 87(2)(b). He identified the officers he was working with as PO Hardell and Lt. Rafferty. Because Lt. Rafferty was the supervising officer, allegation A pleaded against him. Because § 87(2)(b) indicated that an officer matching PO Hardell's description threatened to arrest him and searched him, and PO Hardell admitted to threatening to arrest § 87(2)(b), allegations B and C are pleaded against PO Hardell. PO Daughtry admitted to using force against § 87(2)(b) and he matched the description § 87(2)(b) provided of the officer who allegedly kicked and punched him. Therefore allegation D is pleaded against PO Daughtry.

Undisputed

It is undisputed that Lt. Rafferty stopped the vehicle § 87(2)(b) and § 87(2)(b) occupied. It is undisputed that PO Hardell told § 87(2)(b) he could be arrested for failing to provide his identification.

Disputed Facts

It is disputed whether § 87(2)(b) was driving at an excessive rate of speed. It is disputed whether PO Hardell searched § 87(2)(b) before he was handcuffed. It is disputed whether § 87(2)(b) refused to provide his identification to PO Hardell. It is also disputed whether PO Daughtry punched, kicked and kned § 87(2)(b).

§ 87(2)(g)

§ 87(2)(g)
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Allegation A: Lt. John Rafferty stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(g)
[Redacted].

Allegation B: PO Thomas Hardell searched § 87(2)(b)

§ 87(2)(g)
[Redacted]
[Redacted]

Allegation C: PO Thomas Hardell threatened to arrest § 87(2)(b)

PO Hardell admitted that he told § 87(2)(b) he could be taken to the stationhouse for refusing to provide his identification. § 87(2)(g)

[Redacted]

Allegation D: PO Kaz Daughtry used physical force against § 87(2)(b)

The investigation was unable to determine whether PO Daughtry used force against § 87(2)(b) as alleged.

§ 87(2)(g)
[Redacted]

Investigator: Date:

Supervisor: Date:

Reviewed by: Date:

Reviewed by: Date: